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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,392	07/03/2000	Hycon Jun Kim	P-102	4315
<div>34610      7590      10/16/2007 KED &amp; ASSOCIATES, LLP P.O. Box 221200 Chantilly, VA 20153-1200</div> <div>EXAMINER AMINI, JAVID A</div> <div>ART UNIT      PAPER NUMBER 2628</div> <div>MAIL DATE      DELIVERY MODE 10/16/2007      PAPER</div>				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/609,392

**Applicant(s)**

KIM, HYEON JUN

**Examiner**

Javid A. Amini

**Art Unit**

2628

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/6/2007 has been entered.

***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 22 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 4 of copending Application No. 10/992,672.

This is a provisional obviousness-type double patenting rejection.

Claim 22 of this application conflict with claim 4 of Application No. 10/992,672.

37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

Although the conflicting claims are not identical, they are not patentably distinct from each other. Please see the table comparison below.

	Current Application 09/609,392		Copending Application No. 10/992,672
	Claim 22.		Claim 4.
A	A confidence measure extraction method of a dominant color of an image region, comprising:	A'	A coherency extraction method of a dominant color, comprising:
B	obtaining a number of color pixels corresponding to each dominant color and a coherence value corresponding to a each dominant color;	B'	inputting a size of a coherency checking mask having a width and a height; obtaining a number of pixels mapped to and corresponding to the dominant color; obtaining a number of coherent pixels by counting a number of pixels mapped to the coherency checking mask when the pixels masked by central arrangement of the coherency checking mask is mapped to the dominant color; and

C	multiplying the coherence value by a value corresponding to the number of color pixels with respect to each dominant color, adding the multiplied values with respect to all of the region dominant colors; and dividing the thusly added multiplied values by a region size and extracting a confidence value descriptive of dominant colors in the image region.	C'	dividing the total number of coherent pixels by a value obtained by multiplying the number of pixels mapped to and corresponding to the dominant color by a value obtained by subtracting 1 from the size of coherency checking mask to obtain a coherency of the dominant color.
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In regards to claim 22 of current application 09/609,392, although the limitation of claim 4 of copending application 10/992,672 is not identical, claim 4 of 672 recites “a coherency extraction”, which in accordance to claim 22 of 392, “a confidence measure extraction”, and in section “C” of 392 recites “dividing the thusly added multiplied values by a region size”, which in accordance to claim 4 of 672 recites “dividing the total number ... by a (size-1)”.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Graham et al.

5,222,154, hereinafter Graham.

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Claim 22.

Graham teaches a confidence measure extraction method of a dominant color of an image region, comprising: obtaining a number of color pixels corresponding to each dominant color and a coherence value corresponding to a each dominant color (e.g., in fig. 2 step 204 find colors (that corresponds to color pixels)-uses RGB histogram (that corresponds to coherence value of dominant color); multiplying the coherence value by a value corresponding to the number of color pixels with respect to each dominant color (e.g., in figs. 14 the color value before #4 that considered to be a dominant color for that region, i.e. repeated in fig. 14B shows three “4s”),

Graham does not explicitly specify adding the multiplied values with respect to all of the region dominant colors; and dividing the thusly added multiplied values by a region size and extracting a confidence value descriptive of dominant colors in the image region. However, in fig. 14B a person skill in the art may have added the multiplied value i.e. 4x1, 4x1 as a dominant color and 20x1 as a next dominant color, and averaging the region 1402 into a region 1404 to extract e.g., the confidence value, or in fig. 9 illustrates e.g., the dominant color in line 1 is considered as “RED” or in line 2 is considered as “WHITE”.

It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute applicant's described structure, for that described by Graham as segments of each line are correlated with each other and with segments of adjacent lines to determine if the noted colors are in similar locations to thereby identify various spatial areas of color representing the original.

***Conclusion***

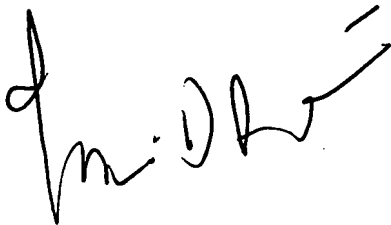
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javid A. Amini whose telephone number is 571-272-7654. The examiner can normally be reached on 8-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on 571-272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Javid A Amini  
Examiner  
Art Unit 2628

J.A.

A handwritten signature in black ink, appearing to read 'J.A. Amini', is written below the printed name.